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Docket No. 2096.00C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT #15
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APPLICANT: Dave W. Gordon

SERIAL NO.: 09/768,969

FOR: THERMAL FOOT COVER

FILED: January 24, 2001

GROUP ART 3728

EXAMINER: Patterson

I HEREBY CERTIFY THAT THIS
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APPELLANT'S REPLY TO EXAMINER'S ANSWER

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REMARKS

Several comments by the Examiner in the Examiner's "Response to Argument" are
herein addressed:

1. The Examiner comments that: In response to applicants' argument that Bulzomi reflects heat outwardly not inwardly, Bulzomi is clearly directed towards a foot covering for regulating the temperature of a wearers' foot in relation to an environment. Bulzomi clearly provides one of ordinary skill with motivation for reversing the orientation of the radiant barrier layer by suggesting the use of temperature control footwear to provide insulation and heat retaining properties for use in cold environments (column 1 lines 55-65).

Bulzomi is entitled "Heat Resistant Work Shoe" and, as the title suggests, is dedicated to ventilating and keeping the interior of the shoe cool. The Abstract discusses this ventilation. The specification addresses "enabling the wearer to tolerate working in hot asphalt and other heated working surfaces" (Col.1, ln.5-7). Belzomi is not "suggesting use of temperature control footwear to provide insulation and heat retaining properties . . ." as stated by the Examiner. Bulzomi protects the interior of the shoe from the exterior heat. Bulzomi distinguishes Yoshida, Oatman and Akagi in its background as retaining heat in the shoe. The Examiner does not rely on Yoshida or Akagi and argues only that Oatman is used "merely as teaching for orienting a reflecting layer to reflect the heat inwardly towards a wearer." But Oatman is not the layered cover taught by Applicant and, as explained in Appellant's Brief, cannot be combined with the other cited references to result in Applicant's cover.

2. In response to applicants' arguments directed towards Latzke, the aluminum foil (column 4 line 49) layer (2) is the same material suggested by applicant for the radiant barrier layer (as recited on page 9 line 16-19) and is also the same material disclosed by Bulzomi (column 3 lines 11-12) and therefore this layer is considered to be a radiant barrier layer as disclosed and claimed by applicant.

Applicant does not suggest aluminum foil as the radiant barrier 60. Aluminum, of itself, is a heat conductor with a thermal conductivity of $0.53 \text{ cal}\cdot\text{cm}/^{\circ}\text{C}\cdot\text{cm}^2\cdot\text{sec}$ @68°F. Even Latzke admits that aluminum foil is heat conductive, that for Latzke's purposes copper is even better because it is more heat conductive, but that aluminum is less expensive (Col2, ln.9-17). Applicant suggests that "the radiant barrier 60 can be made from a variety of materials such as metal foil, metallized textiles or metallized flexible polymeric material" (Pg.8, ln.20-22; Pg.9, ln.16-18). However, this choice of materials does not, standing

alone, disclose applicant's radiant barrier 60. If aluminum foil is one of the materials, applicant teaches that the radiant barrier 60 consists of "two thin sheets of aluminum foil, extruded polymer and a reinforcing scrim. The extruded polymer and the reinforcing scrim are sandwiched between the two sheets of aluminum foil to form the radiant barrier 60" (P.8, ln.23-p.9,ln.5; p.9, ln.19-22). Applicant's claims include as an element the radiant barrier, not just a sheet of aluminum foil.

On the other hand, Bulzomi actually teaches use of "perforated aluminum foil" (Col.3, ln.11-12). And Latzke actually teaches "two closed-porous PE foam layers adhesion bonded to an intermediate aluminum foil" (Col.4, ln.48-49). Bulzomi's combination uses perforated aluminum foil and, even if aluminum foil was not thermally conductive, which it is, a perforated foil is not a "radiant barrier" in the sense of applicant's claimed cover. Latzke teaches a metal layer which is "heat conducting" (Col.1, ln.66; Col.1, ln.6, 9-10, 63; Col. 3, ln.7; Col.4, ln.41-42) and cannot be said to be a barrier in the sense of applicant's claimed cover.

The other comments made by the Examiner in the Examiner's Answer are believed to be responded to in Applicant's initial Brief and are not further addressed herein. Applicant respectfully requests that the rejection of claims be reversed and that all claims now pending be allowed.

Respectfully submitted,
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